



H.R. 2881 – FAA Reauthorization Act of 2007

EXECUTIVE SUMMARY

Representative James Oberstar (D-MN) introduced the FAA Reauthorization Act, H.R. 2881, on June 27, 2007. The House Transportation and Infrastructure Committee approved the bill, as amended, by a voice vote. It will be considered on the floor under a structured rule on September 20, 2007.

H.R. 2881 authorizes \$66 billion for FAA programs over the next 4 years. The bill also reopens contract negotiations between the FAA and the National Air Traffic Controllers Association (NATCA) and includes a pro-Labor provision reclassifying Federal Express in order to make it easier for its employees to unionize – the Minority Views section of the Committee Report strongly opposes these two provisions.

The Ways and Means Committee approved legislation (H.R. 3539), which will be incorporated into H.R. 2881 by the rule, that provides a four-year extension of the current tax system for funding the Airport and Airway Trust Fund. Included in this extension is a tax increase on jet fuel and aviation gasoline used by noncommercial aviation. The increased revenues from this tax increase can only be used for making expenditures to carry out air traffic control modernization.

The Administration has issued a veto threat for H.R. 2881.

FLOOR SITUATION

H.R. 2881 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Republican Member of the Transportation and Infrastructure Committee.
- Waives all points of order against consideration of the bill except those arising under clause 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute printed in Part A of the Rules report, modified by the amendment printed in part B of the Rules report, shall be considered as adopted in the House and in the Committee of the Whole. The bill as amended shall be considered as an original bill for the purposes of further amendment.

- Makes in order only those amendments printed in Part C of the Rules Committee report.
- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The bill was introduced by Representative James Oberstar (D-MN) on June 27, 2007. The House Transportation and Infrastructure Committee approved H.R. 2881, as amended, by a voice vote on June 28, 2007.

The bill is expected to be considered on the floor on September 20, 2007.

BACKGROUND

The Federal Aviation Administration (FAA) is an agency within the Department of Transportation that oversees and regulates the U.S. aviation system with the task of providing the safest and most efficient system in the world.

The authorization for many of FAA's programs, as well as the taxes and fees associated with the Airport and Airways Trust Fund, expire on September 30, 2007. The Administration proposed a number of FAA reforms, including significant changes to FAA's current tax and fee system that would be linked more closely with usage of the U.S. aviation system. The proposal stirred a contentious debate between the commercial airline industry and general aviation.

The bills, however, reported by the Transportation and Infrastructure Committee and the Ways and Means Committee only included minor changes to the current financing system. According to the Ranking Member of Ways and Means Subcommittee on Select Revenue, Rep. Phil English (R-PA), "it [is] incumbent...to ensure that these taxes are applied fairly and collected in a timely fashion with as little burden upon passengers as possible...In marking up this 4-year extension of the aviation taxes, we provide time and an opportunity to do a more detailed study of the relative benefits and burdens of the current system..."

SUMMARY

FAA Funding: The bill authorizes \$66 billion for FAA programs over the next 4 years, including:

- Airport Planning and Development and Noise Compatibility Planning and Programs
 - \$3.8 billion for FY2008
 - \$3.9 billion for FY2009
 - \$4 billion for FY2010

- \$4.1 billion for FY2011

Air Navigation Facilities and Equipment

- \$3.12 billion for FY2008
- \$3.246 billion for FY2009
- \$3.259 billion for FY2010
- \$3.353 billion for FY2011

FAA Operations

- \$8.726 billion for FY2008
- \$8.978 billion for FY2009
- \$9.305 billion for FY2010
- \$9.590 billion for FY2011

Research and Development

- \$335.2 million for FY2008
- \$481.6 million for FY2009
- \$486.5 million for FY2010
- \$514.8 million for FY2011

Note: The Statement of Administration Policy (SAP) states that “H.R. 2881 authorizes spending in certain areas at levels far higher than requested by the Administration” while not including “much-needed reforms to more efficiently and effectively spend taxpayer money on air traffic control services.”

Extension and Modification of Taxes Funding Airport and Airway Trust Fund: The Ways and Means Committee approved legislation (H.R. 3539), which will be incorporated into H.R. 2881, that provides a four-year extension of the current tax system for funding the Aviation Trust Fund. The bill would increase taxes on jet fuel used by noncommercial aviation from 21.8 cents per gallon to 35.9 cents per gallon. It would also increase taxes on aviation gasoline used by noncommercial aviation from 19.3 cents per gallon to 24.1 cents per gallon.

Passenger Facility Charges (PFC): H.R. 2881 increases the maximum level allowed for PFCs from \$4.50 to \$7.00.

PFCs are local fees imposed by airport operators (with the approval of the Secretary of Transportation) on every passenger flying into and out of specific airports. Funds can be used for a variety of airport projects, including airside and landside development and planning. Not all airports participate, with the majority of those assessing the fee being large- and medium-hub airports. According to the Congressional Research Service, total PFC “collections have grown from \$85.4 million in 1992 to \$2.5 billion in 2005.”

Overflight Fees: The bill authorizes the FAA to increase fees for certain air traffic services provided to flights that do not originate or land in the United States, known as “overflight fees.”

Registration Fees: H.R. 2881 authorizes the collection of the following fees for FAA services and activities:

- \$130 for registering an aircraft;
- \$45 for replacing an aircraft registration;
- \$130 for issuing an original dealer's aircraft certificate;
- \$105 for issuing an aircraft certificate (other than an original dealer's aircraft certificate);
- \$80 for issuing a special registration number;
- \$50 for issuing a renewal of a special registration number;
- \$130 for recording a security interest in an aircraft or aircraft part;
- \$50 for issuing an airman certificate;
- \$25 for issuing a replacement airman certificate;
- \$42 for issuing an airman medical certificate; and
- \$100 for providing a legal opinion pertaining to aircraft registration or recordation.

Inclusion of Stakeholders in Air Traffic Control Modernization Projects: H.R. 2881 requires the FAA to include representatives of each exclusive collective bargaining unit in the planning, development, and deployment of air traffic control modernization projects that would impact them.

Note: According to the SAP, "the Administration strongly opposes the provision in the bill requiring the FAA to include employees in the NextGen planning process in their role as union members rather than in their professional capacities."

Preference for Small Business Concerns Owned and Controlled by Disabled Veterans: H.R. 2881 requires the FAA to give contract preference for airport development projects to small businesses owned and controlled by disabled veterans.

Calculation of State Apportionment Funds: The bill changes the Airport Improvement Program (AIP) funding calculation for states. AIP provides grants to public agencies for the planning and development of airports. Under current law, 20 percent of AIP is set aside for Non Primary Entitlements and the state apportionment together. This bill creates a state apportionment that is a direct percentage of AIP so that the two are not competing for funding out of a shared 20 percent pot.

Airport Security Program: The bill increases funding authority for the Airport Security Program from \$5 million to \$8.5 million.

GAO Review of Challenges Associated with Transforming to the Next Generation (NextGen) Air Transportation System: The bill requires the GAO to review the progress and challenges associated with transforming the Nation's air traffic control system in the NextGen System.

GAO Review of NextGen Acquisition and Procedure Development: The bill requires the GAO to review the progress and challenges related to the acquisition costs and schedule for NextGen technologies.

Next Generation Air Transportation System (NextGen) Joint Planning and Development Office: The bill elevates the Director of the planning and development office to Associate Administrator position.

Next Generation Air Transportation Senior Policy Committee: The bill requires the NextGen senior policy committee to meet at least twice a year and to produce an annual report detailing the integrated work plan, the progress of the plan, and any future changes to the plan.

Age Standards for Pilots: The bill changes the pilot age limit requirements by allowing pilots who are under 65 to fly as long as there is another pilot in the crew who is under 60. All pilots over 60 must attain a first class medical certificate to fly.

Inspection of Foreign Repair Stations: The bill mandates that the FAA certify that each foreign repair station passes safety inspection at least twice a year.

Note: According to the SAP, the Administration opposes this provision because it “is unsupported by any safety data or other analysis indicating that current safety oversight efforts are inadequate,” “would strain operating efficiency and increase cost,” and “would also significantly complicate existing international contractual obligations...”

Improved Pilot Licenses: H.R. 2881 requires the FAA to issue tamper-proof, photo IDs for pilots.

Aircraft Fuel Tank Safety Improvement: The bill requires the FAA to issue a final rule regarding the reduction of fuel tank flammability by December 31, 2007.

Contract Tower Program: The bill provides that airports using the Contract Tower Program do not have to pay the cost of the contract tower for 18 months if it is cost-efficient. It authorizes \$8.5 million in FY2008, \$9 million in FY2009, \$9.5 million in FY2010, and \$10 million in FY2011 for the Contract Air Traffic Control Tower Cost-sharing program. The authorization level for FY2007 is \$8 million.

Note: The Contract Tower Program was created in 1982 to allow the FAA to contract out air traffic control tower services to the private sector for airports that would not otherwise have a tower.

Airfares for Members of the Armed Forces: H.R. 2881 expresses the Sense of Congress that U.S. airlines should offer reduced rates and flexible scheduling options to members of the U.S. Armed Forces.

Environmental Mitigation Pilot Program: The bill establishes a pilot program at not more than 6 airports to reduce aviation's impact on noise, air quality, or water quality.

Aircraft Departure Queue Management Pilot Program: The bill establishes a pilot program at not more than 5 airports to improve the management of air traffic flow and to reduce the length of ground holds and idling time.

FAA Personnel Management System: H.R. 2881 reopens contract negotiations between the FAA and the National Air Traffic Controllers Association (NATCA). While the new contract is negotiated, the bill reinstates the previous contract from 1998 and provides retroactive payment of salary and benefits lost. If the FAA and NATCA are unable to reach an agreement, the two groups must go to mediation. If mediation fails, the two groups must submit to a binding arbitration process through the Federal Service Impasses Panel. It also significantly expands the options for judicial review.

Note: The Minority Views section of the Committee Report states that "by legislatively altering the contract negotiation proceedings almost a year after the contract was implemented, Congress wrongly inserts itself into the middle of a labor dispute between the FAA and NATCA and puts the entire FAA Reauthorization process in jeopardy." Additionally, according to the Statement of Administration Policy, "the Administration strongly opposes the bill's proposal to alter the existing air traffic controller contract or re-open contract negotiations and would oppose any proposal that changes or negates the impasse resolution process."

Safety Critical Staffing: The bill increases the number of full-time aviation safety inspectors, safety technical specialists, and support staff. It authorizes \$570 million over the next four years in order to pay for the staffing increases.

Federal Express: The bill includes a pro-Labor provision reclassifying Federal Express in order to make it easier for its employees to unionize. By mandating that non-pilot employees of all express carriers be covered under the National Labor Relations Act, the bill would specifically remove Federal Express from the Railway Labor Act, which requires employees to organize nationwide to form a union. The National Labor Relations Act allows employees to unionize at a local level.

COST

According to the Congressional Budget Office, implementing H.R. 2881 "would have a discretionary cost of \$51 billion over the 2008-2012 period." It is also estimated that "the bill would reduce net direct spending by \$336 million over the 2008-2012 period but increase it by \$216 million over the 2008-2017 period." Additionally, the CBO estimated that "enacting H.R. 3539 would increase revenue by \$822 million over the 2008-2012 period and by about \$1.8 billion over the 2008-2017 period."

[CBO Estimate - H.R. 2881, FAA Reauthorization Act of 2007](#)

[CBO Estimate - H.R. 3539, Airport and Airway Trust Fund Financing Act of 2007](#)

Note: H.R. 3539 provides for the financing of the Airports and Airways Trust Fund and will likely be incorporated into H.R. 2881 prior to floor debate.

ADDITIONAL INFO

“The Administration supports a reasonable reauthorization of the Federal Aviation Administration (FAA) that includes innovative reforms to modernize the Nation’s air traffic control system and address the long delays facing a growing number of the Nation’s air travelers...H.R.2881...falls far short of providing critical reforms...Accordingly, if H.R. 2881 were presented to the President, his senior advisors would recommend that he veto the bill.” ([Statement of Administration Policy](#), 9/19/2007)

AMENDMENTS

(Below are the summaries of the amendments that were made in order by the Rules Committee and may be offered on the floor of the House of Representatives)

1) Rep. Oberstar (D-MN): (Manager’s Amendment) The manager’s amendment requires the Federal Aviation Administration (FAA) to begin schedule reduction meetings if aircraft operations exceed hourly maximum arrival and departure rules at airports, calls for an update of the Department of Transportation Inspector General’s 2000 report on air carrier flight delays, cancellations, and causes for such delays and cancellations. Essential Air Service communities receive additional resources to help their communities continue to receive service, including a repeal of the local participation match, a notice to communities prior to termination of eligibility, procedures for the restoration of eligibility, and the creation of an Office of Rural Aviation. The manager’s amendment provides for labor integration during airline mergers, directs the FAA to conduct rulemakings on flight time limitations, OSHA standards for flight attendants, and aircraft rescue and firefighting standards, and includes provisions on cabin air quality.

2) Rep. Latourette (R-OH): Provides the Secretary the authority to grant Airport Improvement Program funds no greater than \$1,220,000 to Lake County for the purpose of purchasing the Lost Nation Airport from the city of Willoughby.

3) Rep. Poe (R-TX): The amendment will extend drug and alcohol testing to individuals performing maintenance work on U.S. air carriers at foreign aircraft repair stations.

4) Rep. Shays (R-CT): The amendment requires a GAO report assessing the possibility of utilizing market-based strategies for air congestion reduction, such as incentivizing airlines to move flights to off-peak times, implementing slotting systems for airports or quotas, and comparing these strategies' effectiveness against redesigning airspace.

5) Rep. Waters (D-CA): The amendment would state that Section 807, which establishes a working group on "Consolidation and Realignment of FAA Facilities," covers

consolidation of FAA regional offices. It would also ensure that the working group could include representatives of the employees of the regional offices.

6) Rep. Tom Udall (D-NM): This amendment requires the Secretary of Transportation to issue regulations requiring air carriers to provide initial and annual recurring training for flight attendants and gate attendants regarding serving alcohol, dealing with disruptive passengers, and recognizing intoxicated persons. The training must include situational training on methods of handling an intoxicated person who is belligerent.

7) Rep. Klein (D-FL): The amendment would require, subject to appropriations, that the Secretary of Transportation investigate consumer complaints regarding flight cancellations, overbooking of flights, baggage problems, ticket refund problems, incorrect or incomplete fare information, the rights of frequent flyer passengers, and deceptive or misleading advertising. The amendment also would require the Secretary to provide, as an annex to the Department's annual budget request, an estimate of resources that would have been needed to investigate all consumer complaints received the previous fiscal year.

8) Rep. Neugebauer (R-TX): The amendment would require the Administrator of the Federal Aviation Administration to carry out a study on the feasibility of developing a publicly searchable, Internet Web-based resource that provides information regarding the acceptable height and distance that wind turbines may be installed in relation to aviation sites and the level of obstruction such turbines may present to such sites.

Self-Enacting Amendment that will be considered approved upon adoption of the Rule

The amendment would extend for four years the current Airport and Airway Trust Fund taxes applicable to the transportation of persons by air, the transportation of property by air, and fuel (aviation-grade kerosene and aviation gasoline) used in commercial aviation. It would increase the taxes applicable to fuel used in noncommercial aviation from 21.8 cents per gallon to 35.9 cents per gallon in the case of aviation-grade kerosene and from 19.3 cents per gallon to 24.1 cents per gallon in the case of aviation gasoline. (These rates do not include the 0.1 cent per gallon Leaking Underground Storage Tank tax). The additional revenue due to the tax increase is, subject to appropriation, for air traffic control modernization.

STAFF CONTACT

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